

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

EXPORT-IMPORT BANK OF THE UNITED STATES,

Plaintiff,

- V -

HI-FILMS S.A. de C.V., MIGUEL ANGEL PEREDO LUNA, ADRIAN PEREDO LUNA, and GABRIELA PEREDO LUNA,

Defendants.

ECF Case

09 Civ. 3573 (PGG)

**DECLARATION OF LI YU IN
SUPPORT OF EX-IM'S SUR-
REPLY TO DEFENDANT MIGUEL
ANGEL PEREDO LUNA'S
MOTION TO DISMISS**

I, Li Yu, pursuant to 28 U.S.C. § 1746, declares the following under the penalty of perjury:

1. I am an Assistant United States Attorney in the office of Preet Bharara, United States Attorney for the Southern District of New York, attorney for the plaintiff Export-Import Bank of the United States (“Ex-Im”) in the above-captioned action.

2. I am familiar with the proceedings in this matter and make this declaration in support of Ex-Im's sur-reply in further opposition to defendant Miguel Angel Peredo Luna's motion to dismiss.

3. Attached hereto as Exhibit 1 is a true and correct copy of excerpts from the transcript of a deposition of Miguel Angel Peredo Luna held on March 2, 2009 in *Sabic Americas, Inc. v. Grupo Cuadro, et al.*, Case No. 37-2007-00076795, currently pending in the Superior Court of the State of California, San Diego County.

4. Attached hereto as Exhibit 2 is a true and correct copy of a declaration of Miguel Angel Peredo Luna dated March 2, 2009, which was submitted in *Grupo Cuadro v. M. Holland, et al.*, Case No. 2007-14857, currently pending in the District Court for Harris County in the 234th Judicial District of the State of Texas.

Dated: New York, New York
December 30, 2009

By: s/ Li Yu
LI YU
Assistant United States Attorney
Tel.: (212) 637-2734
Fax: (212) 637-2686
Email: li.yu@usdoj.gov

EXHIBIT 1

Condensed Transcript

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO - SOUTH COUNTY DISTRICT**

SABIC AMERICAS, INC.,

Plaintiff,

vs.

GRUPO CUADRO, S.A. DE C.V.,
MIGUEL ANGEL PEREDO LUNA, PG
FILMS, LLC, M. LUNA, LLC,
MALPEG INVESTMENTS, INC.,

Defendants.

Case No.
37-2007-00076795-
CU-BC-SC

DEPOSITION OF
MIGUEL ANGEL PEREDO
VOLUME I

MARCH 2, 2009
1:10 p.m.

625 Broadway
Suite 900
San Diego, California

Denise T. Johnson, CSR No. 11902



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SUPERIOR COURT OF THE STATE OF CALIFORNIA COUNTY OF SAN DIEGO - SOUTH COUNTY DISTRICT	INDEX TO EXAMINATION
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Plaintiff,	2
vs.	3 WITNESS: MIGUEL ANGEL PEREDO, VOLUME I
Case No. 37-2007-00076795- CU-BC-SC	4
GRUPO CUADRO, S.A. DE C.V.,	5
MIGUEL ANGEL PEREDO LUNA, PG	6 EXAMINATION PAGE
FILMS, LLC, M. LUNA, LLC,	7 BY MR. O'HARA 6
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Defendants.	9
-----	10
DEPOSITION OF	11
MIGUEL ANGEL PEREDO	12
VOLUME I	13
MARCH 2, 2009	14
1:10 p.m.	15
625 Broadway	16
Suite 900	17
San Diego, California	18
Reported by Denise T. Johnson, CSR No. 11902	19
	20
	21
	22
	23
	24
	25
2	4
1 Appearances of Counsel	1 MIGUEL ANGEL PEREDO, VOLUME I
2	2 Sabic Americans, Inc. V. Grupo Cuadro
3 For Plaintiff:	3 Monday, March 2, 2009
4	4 Denise T. Johnson, CSR No. 11902
5 NIXON PEABODY	
6 BY: GREGORY P. O'HARA	INDEX TO EXHIBITS
7 200 Page Mill Road, Suite 200	
8 Palo Alto, California 94306-2022	5
9 650.320.7750	6 EXHIBITS MARKED
10 E-mail: gohara@nixonpeabody.com	7 3 Plaintiff's Notice of Taking Deposition 21
11	8 of Grupo Cuadro, S.A. DE C.V., with
12 For Defendants:	9 Request for Production of Documents
13	10
14 GARCIA CALDERON RUIZ	11 4 Plaintiff's Notice of Taking Deposition 26
15 BY: ALBERT A. ERKEL, Jr.	12 of Malpeg Investments, Inc., with
16 MARIA MENDOZA	13 Request for Production of Document
17 625 Broadway, Suite 900	14
18 San Diego, California 92101	15 5 Plaintiff's Notice of Taking Deposition 33
19 619.564.8400	16 of PG Films LLC, with Request for
20 E-mail: gcrtegal.com	17 Production of Documents
21	18 6 Plaintiff's Notice of Taking Deposition 53
22 Also present: Bradley Arakelian, Spanish Interpreter	19 of M. Luna, LLC, with Request for
23	20 Production of Documents
24	21
25	22 7 An order from Grupo Cuadro 64
	23
	24 8 String of e-mails 87
	25



5			7		
1	9	Stack of documents Bates labeled 90	1		litigation.
2		SAB000026 through SAB000039	2		Have you had your deposition taken before?
3			3	A.	Yes.
4	10	Stack of documents Bates labeled GC0132 93	4	Q.	In the course of giving deposition in the past,
5		through GC0122	5		did you use an interpreter?
6			6	A.	Yes.
7	11	Purchase Order 96	7	Q.	You understand that the oath you have just taken
8			8		requires you to give complete and truthful answers to the
9	12	Purchase Order 98	9		questions that are posed to you today?
10			10	A.	Yes.
11	13	Bill for 256,410 103	11	Q.	In order to proceed today, I would like you to
12			12		wait until the interpreter finishes interpreting any
13	14	Stack of documents Bates labeled GC0086 105	13		question before you give an answer. And I will attempt to
14		through GC0090	14		wait until you complete your answer and I get an
15			15		interpretation before I ask the next question. All right?
16	15	Banorte Balance Sheet 106	16	A.	Fine.
17			17	Q.	On how many occasions have you had your
18			18		deposition taken?
19			19	A.	Approximately two.
20			20	Q.	Were you a party to those actions?
21			21	A.	No.
22			22	Q.	When was the last time you gave a deposition?
23			23	A.	I don't remember.
24			24	Q.	Was it in 2009?
25			25	A.	No.
6			8		
1		SAN DIEGO, CALIFORNIA	1	Q.	Was it in 2008?
2		MONDAY, MARCH 2, 2009, 1:10 A.M.	2	A.	Correct.
3			3	Q.	You don't recall in what month it was?
4			4	A.	Correct.
5		BRADLEY ARAKELIAN,	5	Q.	Where was that deposition taken?
6		being called as an interpreter, was first duly	6	A.	In the State of Texas.
7		administered an oath in accordance with Code of Civil	7	Q.	Who was your attorney, if any?
8		Procedure Section 2094, to translate English to	8	A.	Jesse Castillo.
9		Spanish and Spanish to English the testimony of the	9	Q.	Do you recall who the parties to the case were?
10		following witness:	10	A.	Grupo Cuadro.
11			11	Q.	Any other parties to that litigation?
12		MIGUEL ANGEL PEREDO,	12	A.	Against M. Holland.
13		having been duly administered an oath through the	13	Q.	Were Grupo Cuadro and M. Holland the only parties
14		English-Spanish interpreter in accordance with Code	14		to the case?
15		of Civil Procedure Section 2094, was examined and	15	A.	That I remember, yes.
16		testified as follows:	16	Q.	What is your date of birth?
17			17	A.	September 21, 1971.
18			18	Q.	Where do you currently live?
19		EXAMINATION	19	A.	San Diego, California.
20		BY MR. O'HARA:	20	Q.	What is your address?
21		Q. Good afternoon. Would you state your name for	21	A.	2890 Gate Fifteen Place, Chula Vista, California
22		the record, please.	22		91914.
23		A. Miguel Angel Peredo.	23	Q.	Are you an American citizen?
24		Q. Mr. Peredo, my name is Greg O'Hara. I'm the	24	A.	No.
25		attorney representing Sabic Americans, Inc. in this	25	Q.	Are you married?



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March 2, 2009

<p style="text-align: center;">9</p> <p>1 A. Yes.</p> <p>2 Q. What is the name of your wife?</p> <p>3 A. Maria De Los Angeles Luna.</p> <p>4 Q. Does she live with you at 2890 Gate Fifteen</p> <p>5 Place?</p> <p>6 A. Yes.</p> <p>7 Q. Are you on any medication?</p> <p>8 A. No.</p> <p>9 Q. Any reason why you can't proceed today to give me</p> <p>10 complete and truthful answers?</p> <p>11 A. No.</p> <p>12 Q. Do you have any education beyond high school?</p> <p>13 A. Yes.</p> <p>14 Q. Where?</p> <p>15 A. I don't understand the question.</p> <p>16 Q. Did you attend school beyond high school?</p> <p>17 A. Yes.</p> <p>18 Q. Where did you attend school?</p> <p>19 A. Tec.</p> <p>20 Q. University in Mexico City?</p> <p>21 A. Correct.</p> <p>22 Q. Did you obtain a degree from Tec?</p> <p>23 A. Yes.</p> <p>24 Q. What degree did you obtain?</p> <p>25 A. Business administration.</p>	<p style="text-align: center;">11</p> <p>1 A. Some.</p> <p>2 Q. What type of training did you receive?</p> <p>3 A. Help to be able to understand the packing</p> <p>4 materials.</p> <p>5 Q. What types of packing materials were there?</p> <p>6 A. Shrink wrap, stretch film, and selling stretch</p> <p>7 wrappers.</p> <p>8 Q. How long did you work at Ferrival?</p> <p>9 A. Two years.</p> <p>10 Q. Did you have an ownership interest in Ferrival?</p> <p>11 A. No.</p> <p>12 THE INTERPRETER: The interpreter would like to</p> <p>13 clarify. The interpreter asked Mr. Peredo if he had</p> <p>14 stocks. Is that the same thing?</p> <p>15 MR. O'HARA: Or any ownership interest, any</p> <p>16 equity.</p> <p>17 THE WITNESS: No.</p> <p>18 BY MR. O'HARA:</p> <p>19 Q. When did you leave Ferrival?</p> <p>20 A. '95.</p> <p>21 Q. Where did you go to work then?</p> <p>22 A. Pack Films.</p> <p>23 Q. What was the business of Pack Films when you</p> <p>24 worked there?</p> <p>25 A. The same.</p>
<p style="text-align: center;">10</p> <p>1 Q. What year?</p> <p>2 A. Around '93 or '94.</p> <p>3 Q. Do you have any formal education beyond obtaining</p> <p>4 your degree from Tec?</p> <p>5 A. No.</p> <p>6 Q. After you graduated from Tec in 1992 or 1994, did</p> <p>7 you go to work?</p> <p>8 A. Yes.</p> <p>9 Q. Where did you go to work?</p> <p>10 A. Ferrival.</p> <p>11 Q. What is Ferrival?</p> <p>12 A. A firm for distributing --</p> <p>13 THE INTERPRETER: The interpreter would like to</p> <p>14 clarify a term.</p> <p>15 THE WITNESS: -- packing material.</p> <p>16 BY MR. O'HARA:</p> <p>17 Q. Was Ferrival a manufacturer of packing materials?</p> <p>18 A. No, it was the -- they did not produce it. They</p> <p>19 distributed it.</p> <p>20 Q. What was your position with Ferrival?</p> <p>21 A. Sales.</p> <p>22 Q. How long did you work at Ferrival?</p> <p>23 A. Approximately two years.</p> <p>24 Q. Did you receive any technical training with</p> <p>25 regard to the materials when you were at Ferrival?</p>	<p style="text-align: center;">12</p> <p>1 Q. Was Pack Films also a distributor?</p> <p>2 A. Yes.</p> <p>3 Q. Not a manufacturer?</p> <p>4 A. Correct.</p> <p>5 Q. What was your position were Pack Films?</p> <p>6 A. Director of sales.</p> <p>7 Q. Did you have an ownership interest in Pack Films?</p> <p>8 A. Yes.</p> <p>9 Q. When was Pack Films formed?</p> <p>10 A. '95.</p> <p>11 Q. Did you form Pack Films?</p> <p>12 A. Yes.</p> <p>13 Q. Did you have any partners?</p> <p>14 A. Yes.</p> <p>15 Q. How many?</p> <p>16 A. One.</p> <p>17 Q. Who was your partner?</p> <p>18 A. My mother.</p> <p>19 Q. How long did you work with Pack Films?</p> <p>20 A. Three years, approximately.</p> <p>21 Q. Until about 1998?</p> <p>22 A. Correct, approximately.</p> <p>23 Q. In 1998, was Pack Films sold?</p> <p>24 A. No.</p> <p>25 Q. Was Pack Films closed in 1998?</p>



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<p style="text-align: center;">41</p> <p>1 Interpreter is confused. Grupo Cuadro and PG Films, LLC 2 owned the same -- 3 MR. O'HARA: No. I'll start over again. 4 BY MR. O'HARA: 5 Q. In 2007, was Grupo Cuadro owned by the same 6 people as the people who owned PG Films, LLC? 7 A. No. 8 Q. Was your wife ever an owner of Grupo Cuadro in 9 2007? 10 A. Stockholder. 11 Q. What percentage? 12 A. 48 percent. 13 Q. In 2007? 14 A. Yes. 15 Q. Who owned the other 52 percent? 16 A. My mother. 17 Q. Did you own any stocks in 2007 of Grupo Cuadro? 18 A. No. 19 Q. Did PG Films, LLC have sales in 2006? 20 A. Yes. 21 Q. Did it manufacture stretch film in 2006? 22 A. No. 23 Q. Did PG Films, LLC in 2006 sell stretch film that 24 it bought from Grupo Cuadro? 25 A. Yes.</p>	<p style="text-align: center;">43</p> <p>1 A. I. 2 Q. What office do you hold? 3 A. President. 4 Q. Who else? 5 A. Jim Slaten. 6 Q. What office does he hold? 7 A. VP operation. 8 Q. Anyone else? 9 A. Ricardo Schoenbrunn, CFO. 10 Q. Anybody else? 11 A. Important ones, no. 12 Q. How many employees does PG Films, LLC have today? 13 A. Approximately 44. I would have to check to make 14 sure. 15 Q. Do they all work at the same business address 16 that you provided me? 17 A. Yes. 18 Q. That's the same business address as PG Films, 19 Inc.? 20 A. Correct. 21 Q. Does PG Films, LLC have any employees that work 22 elsewhere? 23 A. Yes. 24 Q. Who? 25 A. I don't remember their names, but they're</p>
<p style="text-align: center;">42</p> <p>1 Q. Did PG Films, LLC, in 2006, purchase stretch film 2 from any company other than Grupo Cuadro? 3 A. I think so, but I don't remember. 4 Q. Do you have a recollection that there was another 5 supplier? 6 A. I don't remember. 7 Q. In 2007, did PG Films, LLC have a supplier other 8 than Grupo Cuadro? 9 A. I don't think so, but I don't remember. 10 Q. Has PG Films, LLC ever purchased stretch film 11 from any company other than Grupo Cuadro? 12 A. Can you repeat the question. 13 (Question read.) 14 THE WITNESS: In 2008? 15 BY MR. O'HARA: 16 Q. Any year, ever. 17 A. PG Films? 18 Q. PG Films, LLC. 19 A. If I understand the question, PG Films has bought 20 stretch film from other companies in whatever year? 21 Q. Yes. 22 A. I don't think so, but I don't remember. 23 Q. Does PG Films, LLC have any officers? 24 A. Yes. 25 Q. Who?</p>	<p style="text-align: center;">44</p> <p>1 salesman. 2 Q. Where do they work? 3 A. Orange County. 4 Q. And you don't recall his or her name? 5 A. Milla. That's the last name. Milla is the last 6 name. 7 Q. Any others? 8 A. No. 9 Q. Do you have any salespeople outside the State of 10 California? 11 A. No. 12 Q. Do you have any salespeople or employees in 13 Mexico? 14 A. No. 15 Q. Is your wife an employee of PG Films, LLC? 16 A. No. 17 Q. Is Vincente Dominguez an employee of PG Films, 18 LLC? 19 A. No. 20 Q. Has PG Films, LLC ever had a meeting of members? 21 A. No. 22 Q. Has PG Films, Inc. ever had a meeting of 23 shareholders? 24 A. No. 25 Q. Has PG Films, Inc. ever had a meeting of the</p>

<p style="text-align: center;">53</p> <p>1 A. Tax returns. ---</p> <p>2 Q. Anything else?</p> <p>3 A. No.</p> <p>4 Q. I've handed you what has been marked as</p> <p>5 Exhibit 6.</p> <p>6 (Exhibit 6 was marked.)</p> <p>7 BY MR. O'HARA:</p> <p>8 Q. Are you the corporate representative to testify</p> <p>9 on behalf of M. Luna, LLC?</p> <p>10 A. Yes.</p> <p>11 Q. Have you of seen this document before?</p> <p>12 A. No.</p> <p>13 Q. Turning to Page 2 of the documents, I direct your</p> <p>14 attention to Items 1 through 8. Are you the person most</p> <p>15 knowledgeable on behalf of M. Luna, LLC to testify as to</p> <p>16 those items?</p> <p>17 A. Yes.</p> <p>18 Q. Turning to Pages 5 and 6, directing your</p> <p>19 attention to the items and documents listed as Items 1</p> <p>20 through 13. Did you bring any documents with you today</p> <p>21 responsive to those requests?</p> <p>22 A. No.</p> <p>23 Q. Is anybody searching for documents responsive to</p> <p>24 those items?</p> <p>25 A. There are no papers.</p>	<p style="text-align: center;">55</p> <p>1 Q. You requested Mr. Ibarra to form the LLC?---</p> <p>2 A. Correct.</p> <p>3 Q. Why?</p> <p>4 A. Just because.</p> <p>5 Q. You asked Mr. Ibarra to form a company just to</p> <p>6 form a company?</p> <p>7 A. Yes.</p> <p>8 Q. How did you pick the name?</p> <p>9 A. My last name.</p> <p>10 Q. What is that?</p> <p>11 A. M is Miguel.</p> <p>12 Q. When did you ask this to be formed?</p> <p>13 A. I don't remember.</p> <p>14 Q. More than five years ago?</p> <p>15 A. No. I don't remember. But no, no less than</p> <p>16 that.</p> <p>17 Q. Does M. Luna, LLC have any assets today?</p> <p>18 A. Yes.</p> <p>19 Q. What?</p> <p>20 A. It has a house.</p> <p>21 Q. Is that the house you live in?</p> <p>22 A. No.</p> <p>23 Q. Have you ever lived in the house?</p> <p>24 A. Yes.</p> <p>25 Q. When?</p>
<p style="text-align: center;">54</p> <p>1 Q. M. Luna has no papers whatsoever?</p> <p>2 A. Well, the corporation does.</p> <p>3 Q. The LLC?</p> <p>4 A. What are we talking about?</p> <p>5 Q. Does M. Luna, LLC have any records?</p> <p>6 A. Just the corporate.</p> <p>7 Q. What corporate records does M. Luna, LLC have?</p> <p>8 A. The papers in California when one opens a</p> <p>9 company.</p> <p>10 Q. Are you talking about the formation documents</p> <p>11 when the LLC was formed?</p> <p>12 A. Correct.</p> <p>13 Q. Does it have any other records?</p> <p>14 A. No.</p> <p>15 Q. Does it have any operational records?</p> <p>16 A. It doesn't have any operations.</p> <p>17 Q. Does it have any financial records?</p> <p>18 A. No, Armondo Ibarra is in charge of that. And the</p> <p>19 tax returns of that company.</p> <p>20 Q. Who formed M. Luna, LLC?</p> <p>21 A. I don't understand the question.</p> <p>22 Q. Who formed it?</p> <p>23 A. Who did it or under what name or what names?</p> <p>24 Q. Who requested that it be formed?</p> <p>25 A. I.</p>	<p style="text-align: center;">56</p> <p>1 A. When?</p> <p>2 Q. When did you live in that house?</p> <p>3 A. November.</p> <p>4 Q. Of what year?</p> <p>5 A. 2008.</p> <p>6 Q. Did you move out of that house in November 2008?</p> <p>7 A. Yes.</p> <p>8 Q. Why?</p> <p>9 A. I changed to another house.</p> <p>10 Q. Did you buy another house?</p> <p>11 A. No.</p> <p>12 Q. What is the address at the house that is owned by</p> <p>13 M. Luna, LLC?</p> <p>14 A. 2780 --</p> <p>15 THE WITNESS: Saddlers, S-a-d-d-l-e-r-s.</p> <p>16 THE INTERPRETER: Saddlers Creek Road, Chula</p> <p>17 Vista, California, 91914.</p> <p>18 BY MR. O'HARA:</p> <p>19 Q. How long did you live in that house at Saddlers</p> <p>20 Creek?</p> <p>21 A. I don't remember. More than four years.</p> <p>22 Q. Was M. Luna, LLC formed before or after you</p> <p>23 bought the house at Saddlers Creek?</p> <p>24 A. After.</p> <p>25 Q. Did you transfer title to the house from yourself</p>



EXHIBIT 2

P.5

NO. 2007-14857

GRUPO CUADRO, S.A. de C.V.

Vs.

M. HOLLAND COMPANY,
ANTONIO PALAZUELOS, and
JOHN CROWLEY

§
§
§
§
§
§

IN THE DISTRICT COURT OF

HARRIS COUNTY, T E X A S

234TH JUDICIAL DISTRICT

BY
DEPUTY

2008 SEP -8 PM 1:50
9.8.08

FILED
THERESA CHANG
DISTRICT CLERK
HARRIS COUNTY, TEXAS

AFFIDAVIT OF MIGUEL PEREDO
IN SUPPORT OF HIS SPECIAL APPEARANCE

Before me personally appeared Miguel Peredo, who upon being sworn did state:

1. My name is Miguel Peredo. I am over 21 years of age and duly qualified to make this affidavit. The facts stated in this affidavit are within my personal knowledge and are true and correct.
2. I have never resided in Texas. I am currently a resident of California.
3. I do not now maintain and have never maintained an office or place of business in Texas.
4. I am not required to maintain and have not maintained a registered agent for service in Texas.
5. I have no employees, servants, or agents in Texas.
6. I do not own, lease, or control any real or personal property in Texas.
7. I have never maintained a telephone listing or bank account in Texas.
8. I do not own and have never paid any real or personal property taxes in Texas.
9. I do not advertise, solicit, or conduct any business in Texas.
10. I do not provide any service in Texas.

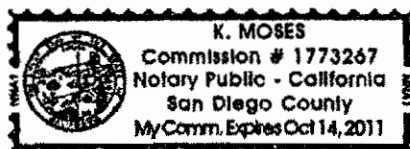
RECORDER'S MEMORANDUM
This instrument is of poor quality
at the time of imaging

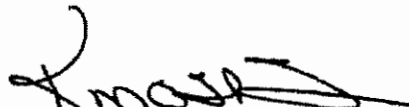
11. I have had no contact with Texas that could be characterized as continuous or systematic.
12. With regard to this specific case, I never met with representatives of M. Holland in Texas. We had meetings in Queretaro, Mexico, in Chicago, Illinois, and San Diego, California. I have not been in Texas for any purpose related to the facts of this case.
13. I also communicated occasionally with representatives of M. Holland by phone and by email. I was not in Texas for any of the phone conversations or email exchanges. I did not place a call to any M. Holland representative in Texas. I do not know for certain if any of the M. Holland representatives were in Texas when they called me or received an email from me, but I know that the finance people for M. Holland are located in Illinois, not Texas. Thus, I do not believe that any discussion between me and M. Holland regarding payment for resin delivered by M. Holland to Grupo Cuadro had any connection to Texas.



MIGUEL PEREDO

SUBSCRIBED AND SWORN TO before me on the 8 day of September, 2008.





Notary Public In and For
the State of California

My Commission Expires: 10-14-2011